IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1221 OF 2004

Sahebrao Mahadu Solanke ...Petitioner
Vs.
The State of Maharashtra ...Respondent

Shri. Rajan Salvi for the Petitioner.
Ms M.H.Mhatre, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 24, 2005.

P.C.:

1. Heard Advocate appearing for the Petitioner. Learned A.P.P. states that on 17th August, 2005 wireless message was sent to the Superintendent of the concerned Jail. However, no one is present today.

2. This Petition is received through Jail for challenging the order dated 13th May, 2004 passed by the Deputy Inspector General of Prison, Aurangabad by which Application for Furlough Leave made by the Petitioner on 29th November, 2003 is rejected. The order dated 13th May, 2004 discloses that on the basis of the report dated 04th February, 2004 of the District Magistrate, Nashik and report dated 04th April, 2004 of the Superintendent of Police, Nashik the Application of the Petitioner has been rejected. A copy of another report dated 19th January, 2004 of the Superintendent of Police, Nashik is annexed to the Petition. The said report does not make out a case for rejecting the Furlough Leave prayed by the Petitioner. The order dated 13th May, 2004 is passed on the basis of subsequent reports dated 04th

Feburary, 2004 and 04th April, 2004 copies of which are not placed on record. In my view, considering the assertions made in the Petition filed through Jail, the Application for Furlough leave filed by the Petitioner deserves to be considered afresh. While considering the Application afresh, reliance should not be placed on the adverse reports which are already received as the concerned authority will be free to call for fresh reports.

3. This court is receiving number of Petitions through Jail where challenge is to the order rejecting Applications for Furlough Leave. Invariably, the Applications are rejected on the basis of the adverse police report. The Petitions are forwarded through the Superintendent or Officers of the concerned Jails in which the Applicants are detained. It is observed that while forwarding the Petitions received through Jail, copies of the police reports are not annexed. Considering the fact that Inspector General of Prisons or Deputy Inspector General of Prisons is the Competent Authority to decide the Applications for Furlough Leave, it is desirable that alongwith the Petitions which are sent through the Jail, the concerned Jail Authorities should forward copies of the police report on the basis of which Applications for Furlough Leave have been rejected. If copies are forwarded alongwith the Petitions, the Prosecutor need

not call for the copies of the reports and the Petition can be heard without any delay.

4. Hence, I pass the following order:

: O R D E R :

i) The impugned order dated 13th May, 2004 is quashed and set aside. Application for Furlough Leave made by the Petitioner on 29th November, 2003 shall be considered afresh in the light of the observations made in this order.

ii) Whenever Petitions are filed through Jail for challenging the rejection of Applications for Furlough Leave, the concerned Officer of the Jail while forwarding the Petitions to this Court will also foward copies of the adverse police reports on the basis of which Applications for Furlough Leave are rejected.

iii) The Inspector General of Prisons, State of Maharashtra will take a note of this order and will issue appropriate directions. The learned Public Prosecutor will inform all concerned authorities about this direction. The office to forward a copy of this order to the learned Public Prosecutor.

iv) Parties to act upon an authenticated copy of this order.

JUDGE